

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ELIZABETH DeLUCA, and
EDS CARE MANAGEMENT,
INC.,

Plaintiffs/Counter-Defendants,

Case No. 14-12175

vs.

HON. AVERN COHN

AMICA MUTUAL INSURANCE
COMPANY,

Defendant/Counter-Plaintiff.

ORDER GRANTING DEFENDANT'S MOTION FOR RECONSIDERATION (Doc. 76)
AND
DIRECTING A STATUS CONFERENCE

This is a long suffering insurance dispute under Michigan's No-Fault Act. Plaintiffs/Counter-defendants, Elizabeth DeLuca (DeLuca) and EDS Care Management, LLC (EDS) (collectively, where appropriate, EDS) sued defendant/counter-plaintiff Amica Mutual Insurance Company (Amica) seeking payment of personal insurance protection (PIP) benefits from Amica. The PIP benefits were for the care of Stephanie Rudd (Rudd), the insured. While Amica paid some PIP benefits, it later ceased payments. Amica filed a counterclaim (Doc. 4) and an amended counterclaim (Doc. 49) seeking recoupment of benefits previously paid on the grounds that the services performed were not necessary and were not performed by a licensed adult foster care facility.

After years of litigation and intervening changes in the law, Amica filed a motion

to dismiss EDS's First Amended Complaint (Doc. 67) and a motion for summary judgment (Doc. 52). The Court granted Amica's motion to dismiss and denied the summary judgment motion as moot. (Doc. 72). The Court also gave Amica time in which to advise the Court whether it wanted to proceed on its counterclaim in light of the dismissal of EDS's complaint. Amica advised that it wanted to proceed.

On September 13, 2018, the Court held a status conference with the parties to discuss the future course of the case at which it indicated it was going to dismiss Amica's counterclaim. The Court later entered an order dismissing the counterclaim and closing the case (Doc. 75).¹

Before the Court is Amica's motion for reconsideration, contending that the Court did not follow proper procedure before dismissing its counterclaim. The motion is GRANTED. See E.D. Mich. LR 7.1(h)(1). This case is REOPENED and Amica's counterclaim is REINSTATED.

The Clerk shall schedule a status conference at which the parties shall be prepared to discuss the potential of settlement.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: 10/30/2018
Detroit, Michigan

¹The Court had hoped that Amica, after years of litigation which was largely resolved in its favor, would see the value of closure.